

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

In re:

**JOHN C. HILL, III,
NAOMI L. HILL,**

Debtors.

)
)
)
)
)
)

**Case No. 13-13406-JDL
Chapter 13**

**MOTION FOR TURNOVER OF FUNDS BY U.S. BANK TRUST NATIONAL
ASSOCIATION, AS TRUSTEE OF THE PRESTON RIDGE PARTNERS
INVESTMENTS II TRUST, C/O SN SERVICING CORPORATION
COMBINED WITH BRIEF IN SUPPORT OF MOTION
AND NOTICE OF OPPORTUNITY FOR HEARING**

COMES NOW, John Hardeman, Chapter 13 Trustee, (hereinafter "Movant") and pursuant to the provisions of 11 U.S.C §542, requests this Court order the turnover of funds. In support of this Motion, Movant would show the Court as follows:

1. On September 30, 2013, Residential Funding Mortgage Securities II, Inc. Home Equity Loan Pass-Through Certificates, Series 2007-HSA2, U.S. Bank National Association, as Trustee, successor in interest to Bank of America N.A., as Trustee, successor by merger to LaSalle Bank N.A., (hereinafter "Residential"), filed its Proof of Claim in this matter through its loan servicer, Specialized Loan Servicing LLC. This Claim represents the 2nd mortgage lien on the Debtors' homestead. No objections to this Claim have been filed. This Claim has been listed in the official claims register as Claim #6.

2. On October 28, 2013, Selene Finance, LP, filed herein a Transfer of Claim Other Than for Security, transferring Claim #6 to SRMOF II 2012-1 Trust, U.S. Bank

Trust National Association, not in its individual capacity but solely as Trustee, (hereinafter "SRMOF"), with notices to its loan servicer, Selene Finance, LP.

3. After mailing all proper notices and receiving no objections, the Court entered its Order of Substitution on November 22, 2013, transferring Claim #6 to SRMOF, in accordance with the Transfer of Claim filed on October 28, 2013.

4. On April 25, 2017, the Court entered an Order vacating its previous Order of Substitution transferring Claim #6 to SRMOF. Pursuant Order Granting Motion to Vacate Order of Substitution entered herein on April 25, 2017, Claim #6 should never have been transferred and the rightful and correct creditor remains Residential.

5. Due to the Transfer of Claim Other Than for Security and resulting Order of Substitution, Movant began remitting the Claim #6 monthly payments to SRMOF. The disbursement checks on Claim #6 were made payable to US Trust Bank, NA, c/o Selene Finance and were mailed to 9990 Richmond Ave., Ste. 400, Houston, TX, 77042.

6. Currently, the amount remitted to SRMOF on account of Claim #6 totals \$31,421.26. This amount should have rightfully been remitted to Residential as set forth in Claim #6.

7. On December 10, 2013, SRMOF filed its Proof of Claim in this matter through its servicer, Selene Finance, LP. This Claim has been listed in the official claims register as Claim #15 and represents the 1st mortgage lien on the Debtors' homestead.

8. On September 19, 2016, Claim #15 was transferred by Order of Substitution to U.S. Bank Trust National Association, as Trustee of the Preston Ridge Partners Investments II Trust, c/o SN Servicing Corporation.

9. As the current creditor and claimholder of Claim #15, U.S. Bank Trust National Association, as Trustee of the Preston Ridge Partners Investments II Trust is the ultimate beneficiary of the erroneously disbursed funds referenced above. As a result, Movant requests U.S. Bank Trust National Association, as Trustee of the Preston Ridge Partners Investments II Trust, be order to turn over \$31,421.26 to Movant to allow Movant to distribute the funds to the proper party.

BRIEF IN SUPPORT

Eleven U.S.C. §542(a), in part provides “an entity...in possession, custody, or control...of property that the trustee may use...shall deliver to the trustee, and account for, such property or the value of such property....” Claim #6 was erroneously transferred to the holder of the 1st mortgage lien, SRMOF. As stated previously, this transfer was in error and, as a result, SRMOF, c/o Selene Finance (the then holder of Claim #15), inadvertently received funds in the amount of \$31,421.26 from Movant. These funds should rightfully have been disbursed to Residential, as set forth in Claim #6. As the current holder and ultimate beneficiary of the erroneously disbursed funds, U.S. Bank Trust National Association, as Trustee of the Preston Ridge Partners Investments II Trust, c/o SN Servicing Corporation should be required to return said funds to Movant for distribution to the proper party.

WHEREFORE, Movant prays that the Court enter an order requiring U.S. Bank Trust National Association, as Trustee of the Preston Ridge Partners Investments II Trust, c/o SN Servicing Corporation to return \$31,421.26 to Movant, and for any other relief the Court deems just and equitable.

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102, no later than 21 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant (and others who are required to be served) and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

The 21 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).

Respectfully submitted,

s/ Linda Ruschenberg
Linda Ruschenberg OBA #12842
321 Dean A. McGee
P.O. Box 1948
Oklahoma City, OK. 73101
13trustee@chp13okc.com
(405) 236-4843
(405) 236-1004 (fax)
Attorney for Trustee

CERTIFICATE OF MAILING

This is to certify that on the 1st day of September, 2017, a true and correct copy of the above and foregoing instrument was mailed, postage prepaid, to the following:

John C Hill, III
Naomi L. Hill
716 N. Briarcliff Dr.
Moore, OK 73170

U.S. Bank Trust National Association as
Trustee of the Preston Ridge Partners Investments II Trust
c/o SN Servicing Corporation
323 5th Street
Eureka, CA 95501

U.S. Bank Trust National Association as
Trustee of the Preston Ridge Partners Investments II Trust
c/o SN Servicing Corporation
Secretary of State
421 NW 13th St., Suite 210
Oklahoma City, OK 73103

SRMOF II 2012-1 Trust
U.S. Bank Trust National Association
c/o Selene Finance, LP
9990 Richmond Ave., Suite 400
Houston, TX 77042

SRMOF II 2012-1 Trust
c/o Selene Finance, LP
P.O. Box 71243
Philadelphia, PA 19176-6243

SRMOF II 2012-1 Trust
c/o Selene Finance, LP
Customer Service
P.O. Box 422039
Houston, TX 77042-4546

SRMOF II 2012-1 Trust
c/o Selene Finance, LP
The Corporation Company
1833 S. Morgan Rd.
Oklahoma City, OK 73128

Residential Funding Mortgage Securities II
c/o Specialized Loan Servicing
8742 Lucent Blvd., Suite 300
Highlands Ranch, CO 80129

s/ Linda Ruschenberg_____